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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
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EXAMINER

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ART UNIT PAPER NUMBER

2608 7

DATE MAILED: 12/28/95

This is a communication from the examiner in charge of your application.  
COMMISSIONER OF PATENTS AND TRADEMARKS**OFFICE ACTION SUMMARY**

Responsive to communication(s) filed on 12-28-95

This action is FINAL.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 12-28-95 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

**Disposition of Claims**

Claim(s) 2-16 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

Claim(s) \_\_\_\_\_ is/are allowed.

Claim(s) 2-16 is/are rejected.

Claim(s) \_\_\_\_\_ is/are objected to.

Claims \_\_\_\_\_ are subject to restriction or election requirement.

**Application Papers**

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. § 119**

Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All  Some\*  None of the CERTIFIED copies of the priority documents have been received.

received in Application No. (Series Code/Serial Number) \_\_\_\_\_

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

**Attachment(s)**

Notice of Reference Cited, PTO-892

Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

Interview Summary, PTO-413

Notice of Draftsperson's Patent Drawing Review, PTO-948

Notice of Informal Patent Application, PTO-152

**- SEE OFFICE ACTION ON THE FOLLOWING PAGES -**

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## **DETAILED ACTION**

### ***Claim Objections***

1. Claims 8 is objected to because of the following informalities: in line 5, "an processor" should be --a processor--. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

2. Claim 2 recites the limitation "said storage device" in line 13 . There is insufficient antecedent basis for this limitation in the claim.

3. Claim 5 recites the limitation "said receiver station data storage device" in 11. There is insufficient antecedent basis for this limitation in the claim.

4. Regarding claim 9, the phrase "adapted to" in line 3 is vague and indefinite.

5. Claim 14 recites the limitation "said remote transmitter station" in line 2. There is insufficient antecedent basis for this limitation in the claim.

6. Regarding claim 14, the phrase "adapted to" in line 8 is vague and indefinite.

### ***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who

has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

8. Claims 2, 3, 5 and 7 are rejected under 35 U.S.C. 102(e) as being anticipated by Saeki et al (Saeki).

Consider claim 2. Saeki discloses a method for providing a function at a receiver station (fig. 1, item 2), the receiver station having a data network (fig. 1, item 1), a processor (fig. 2a, item 35), an input device (fig. 2a, item 44), and a data storage device (fig. 2a, item 42), the method comprising the steps of:

receiving from the input device a set of information collection parameters (i.e. a command button 0-10, which is the parameters, for receiving a set of information collection as shown in figs. 4-8, cols. 7-8);

generating a query from the set of information collection parameters at the receiver station (fig. 4, i.e. which information do you need?);

promulgating the query from the step of generating a query from the receiver station to the data network through the data network connection (the user entering the command, for example, 1 for weather forecast as shown in fig. 4, and promulgating the query, the command, from the receiver station to the data network); and

receiving operating system instruction in response to the step of promulgating a query (receiving operating system instruction such as display information about the weather; col. 7, lines 3-55);

storing the operating system instructions at the storage device (col. 7, lines 3-28).

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Consider claim 3. Saeki further discloses the steps of processing or outputting information on the basis of the operating system instructions at the receiver station (in fig. 4-8); storing a data record evidencing the step of processing or outputting (storing a data record, for example, the user input command 1, which is stored in the video data memory 42); and

transferring the data record from the step of processing or outputting from the receiver station storage device to a data collection station on the data network through the data network connection (the data record, the user input command 1 which is transferred to the data collection station for the display information; col. 7, lines 1-55).

Consider claim 5. Saeki discloses a method for providing and tracking a receiver station's (fig. 1, item 2) use of a function in a data network collection station, the receiver station having a data network (fig. 1, item 1), a processor (fig. 2a, item 35), an input device (fig. 2a, item 44), and a data storage device (fig. 2a, item 42), the method comprising the steps of:

providing operating system instructions or executable code to a plurality of receiver stations from the plurality of data source (fig. 1, 27) (fig. 4, col. 7, lines 1-55); performing a function based on the operating system instruction or executable code at the receiver station (fig. 4, col. 7, lines 1-55);

recording an identification (i.e. command 0-10) of the function performed at the step of performing a function at the receiver station on the receiver station data storage device (recording

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an identification, for example the user input command 1, which is transferred to the data collection station for the display information; col. 7, lines 1-55); and

transferring the record of identification of the function performed at the receiver station to a data collection station on the data network through the receiver station network connection (the data record, the user input command 1 which is transferred to the data collection station for the display information; col. 7, lines 1-55).

Consider claim 7. Saeki further discloses the function in the step of performing a function is a series of numerical functions performed on a computer (the command data is performing at the data network computer 26).

9. Claims 8-16 are rejected under 35 U.S.C. 102(e) as being anticipated by Campbell et al. (Campbell).

Consider claim 8. Campbell discloses in figure 1 and 2, a method of delivering and gathering information on the use of a control signal in a communication network, the network comprising a transmitter station (fig. 1, item 20) and receiver station (fig. 1, item 12, 16), the transmitter station being capable of receiving queries and communicating program materials and data (col. 4, lines 41-48), the receiver station comprising an input device for inputting a command (fig. 2, program source), a processor for receiving programming instruction and communicating information (fig. 2, pcs 50), and a computer for storing data and controlling presentations (fig. 2, pcs 50; col. 7, lines 16-31), the method comprising the steps of:

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programming the computer to store a portfolio of data that designate a plurality of personal interests of a subscriber (i.e. weather, news, stock, and other; col. 5, lines 5-15); querying the transmitter station for data of programming of interest (col. 4, lines 41-48); receiving some portion of a presentation control signal or some mass medium programming (as depicted in figure. 11) on the basis of a comparison with information stored in the computer (col. 13, lines 1-68); presenting a unit of mass medium programming at a computer peripheral location (fig. 6, item 104; col. 9, lines 62-68) on the basis of the data or programming of interest received from the transmitter station (i.e. movies are present at the computer peripheral location 36, 40); and communicating from the receiver station a datum of the unit of mass medium programming or the portion of a presentation control signal (as shown in fig. 11; col. 13, lines 1-68).

Consider claim 9. Campbell discloses (fig. 1 and 2), a method of controlling a plurality of receiver stations each of which includes a television receiver (40), a signal detector (fig. 6, item 112), a processor (fig. 6, item 104; col. 9, line 62-68), and with each of the receiver station connected to detect the presence of one or more control signals and programmed to process downloadable executable code (as shown in fig. 11), the method of controlling comprising the steps of:

receiving at a transmitter station some downloadable executable code which is effective at a receiver station to store operating system instructions at a storage device associated with a

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processor, the downloadable executable code having at each of the plurality of receiver stations a target processor to process data (i.e. event enable word as shown in fig. 11 which display a pay-per-view movie at a particular television receiver 40; col. 12, lines 1-34) ;

transferring the downloadable executable code from the transmitter station (fig. 1, items 10, 11) to a transmitter (fig. 1, item 20);

receiving one or more control signals at the transmitter station, the one or more control signals operate to execute the downloadable executable code (as depicted in fig. 11); and

transferring the one or more controls signals from the transmitter station to the transmitter, and transmitting an information transmission comprising the downloadable executable code and one or more control signals (as depicted in fig. 11 which is transmitted from the transmitter, the head end station, to the television receiver 40).

Consider claim 10. Campbell further discloses wherein the downloadable executable code or some identification data in respect of the downloadable executable code are embedded in a television signal (cols. 5 and 6).

Consider claim 11. Campbell further recites wherein a television program is displayed at a receiver station and the downloadable executable code programs the receiver station processor or computer to output video, audio, or text in the context of the television program or to select information that supplements the television program content (col. 7 and 8).

Consider claim 12. Wherein the one or more control signals incorporate some of the downloadable executable code (fig. 11).

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Consider claim 13. Campbell discloses (fig. 1) a method of providing a function to a receiver station (40) from a remote data source (10, 11), the method comprising the steps of: storing data at the remote data source (i.e. weather, news, stock, and other; col. 5, lines 5-15);

receiving at the remote data source a query for a function or a record evidencing availability, use, or usage of a function from the receiver station (for example a user ordering a pay-per-view movie; col. 17, line 42-64);

transmitting an instruct signal which is effective at the receiver station to store operating system instructions (tire code) at a storage device associated with a processor from the remote data source to the receiver station in response to the step of receiving the query or the record, the receiver station storing the operating system instructions (i.e. storing tire code; col. 12, lines 1-34); and

transmitting from a second remote source (fig. 1, item 20) to the receiver station a signal which controls the receiver station to process the operating system instructions and performs the function (i.e. authorization is transmitted the converter, receiver station 40, the data control system at the head end to have access to a given channel, col. 12, lines 27-34).

Consider claim 14. Campbell teaches (fig. 1, 2, 6 & 11) a method of controlling a remote intermediate data transmitter station (fig. 1; 11) communicate data to one or more receiver stations (fig. 2; 40), with the remote intermediate transmitter station including a broadcast or cablecast transmitter (20) for transmitting one or more signal (fig. 11) which are effective at a

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receiver (32) to instruct a computer or processor (fig. 6, 112, 114, 104), a plurality of selective transmission devices (figs. 1; 12, 16) each operatively connected to said broadcast or cablecast transmitter for communicating a unit of data, a data receiver, a control signal detector, and a controller or computer capable of controlling one or more of the selective transmission devices (as shown in fig. 11), and with the remote transmitter station connected to detect the presence of one or more control signals, to control the communication of specific instruction signal (col. 13, lines 1-68), and to deliver at its broadcast or cable cast transmitter one or more instruct signals, the method communicating comprising the steps of:

receiving an instruct signal (i.e. channel control word, as shown in fig. 11, being effective at the converter 40) to be transmitted by the remote data transmitter station and delivering the instruct signal to a transmitter, the instruct signal being effective at a receiver station to store operating system instructions at a storage device (inherently present in the converter 40) associate with a processor (104) (col. 8, lines 18-62; col. 13, lines 25-60);

receiving the one or more control signals (i.e. 201 as depicted in fig. 11) which at the remote intermediate data transmitter station operate to control the communication of the instruct signal (col. 4, lines 26-48); and

transmitting the one or more control signals (i.e. specific movie to be shown at a specific time) to the transmitter before a specific time (col. 12, lines 1-34; col. 15, lines 16-39).

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Consider claim 15. Campbell further discloses the step of embedding a specific one of the one or more control signals (fig. 11) or in an information transmission containing the instruct signal before transmitting the instruct signal to the remote transmitter station (col. 3, lines 27-43).

Consider claim 16. Campbell further discloses wherein the specific time is a schedule time of transmitting the instruct signal or some information associated with the instruct signal from the remote intermediate data transmitter station and the one or more control signals are effective at the remote intermediate data transmitter station to control one or more of the plurality of selective transmission device at different times (i.e. a plurality of user order a pay-per-view movie which is delivered at different time; col. 12, lines 1-34; col. 17, lines 42-64).

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***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 4 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saeki et al (Saeki) in view of Block et al. (Block).

Consider claim 4 and 6. Saeki does not explicitly show the receiver station network connection is a telephone network connection. Nevertheless, using a telephone network connection for data transferring is well-known and commonly use in the data communication art as evidenced by Block.

Hence, it would have been obvious to one of ordinary skill in the art to use a telephone network in order to transmit data between a data network and a receiver station, as taught by Block, since telephone networks are commonly located in rural area as opposed to CATV broadcast transmission line.